

Accepted / Filed

FEB 15 2019

Federal Communications Commission
Office of the Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In re)	
)	
MARITIME COMMUNICATIONS/LAND)	EB Docket No. 11-71
MOBILE, LLC)	File No. EB-09-IH-1751
)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio)	
Services)	
)	
Applicant for Modification of Various)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services)	0004193028, 0004193328, 0004354053,
)	0004309872, 0004314903, 0004315013,
Applicant with ENCANA OIL AND GAS (USA),)	0004430505, 0004417199, 0004419431,
INC.; DUQUESNE LIGHT COMPANY; DCP)	0004422320, 0004422329, 0004507921,
MIDSTREAM, LP; PUGET SOUND)	and 0004604962
ENERGY, INC.; ENBRIDGE ENERGY)	
COMPANY, INC.; INTERSTATE POWER)	
AND LIGHT COMPANY; WISCONSIN)	
POWER AND LIGHT COMPANY; DIXIE)	
ELECTRIC MEMBERSHIP CORPORATION,)	
INC.)	

To: Marlene H. Dortch, Secretary
Attention: The Commission

**ENFORCEMENT BUREAU'S OPPOSITION TO MULTIPLE PETITIONS FOR
RECONSIDERATION OF *MEMORANDUM OPINION AND ORDER*, FCC 18-168**

1. On April 22, 2015, then Chief Administrative Law Judge Richard L. Sippel issued *Order*, FCC 15M-14, in which he excluded Warren Havens (Havens) and Environmental, LLC and Verde Systems, LLC (ENL-VSL) from participating as parties in the above-captioned proceeding for repeated "deliberate transgressions" and "a history of disruptive disregard of

orders and otherwise contemptuous behavior.”¹ This Order also certified to the Commission the question of whether a separate proceeding is warranted to determine if Havens and the Havens companies – identified as ENL-VSL, Intelligent Transportation and Monitoring Wireless, LLC, Skybridge Spectrum Foundations, Telesaurus Holdings GB LLC and V2G LLC² – have the basic qualifications to hold Commission licenses.³ On April 29, 2015, Havens and ENL-VSL filed separate interlocutory appeals of *Order, FCC 15M-14*.⁴ The Enforcement Bureau (Bureau) opposed each of these interlocutory appeals in a collective response.⁵

2. On September 28, 2017, Judge Sippel terminated the hearing based on stipulations that the status of the Issue (g) site-based licenses – the only ones still at issue in the proceeding – were no longer in dispute (Termination Order).⁶ On October 30, 2017, Havens, apparently proceeding as a *pro se* party, filed an appeal of the Termination Order.⁷ On October 30, 2017, Polaris PNT PBC (Polaris), which is not – and never has been – a party to the captioned proceeding and which is apparently controlled by Havens, filed a separate appeal of the Termination Order.⁸ The Bureau opposed each of these Appeals on procedural and other grounds.⁹

¹ *Order, FCC 15M-14* (ALJ, rel. Apr. 22, 2015), at 1-2.

² *See id.* at n.1.

³ *See id.* at 13, para. 23.

⁴ *See* [Havens] Interlocutory Appeal (filed Apr. 29, 2015) (Havens Appeal) and ENL-VSL Interlocutory Appeal as of Right (filed Apr. 29, 2015) (ENL-VSL Appeal).

⁵ *See* Enforcement Bureau’s Opposition to Interlocutory Appeals (filed May 6, 2015).

⁶ *See Order of Dismissal, FCC 17M-35* (September 28, 2017) (Termination Order).

⁷ *See* [Havens] Appeal of Order of Dismissal, FCC 17M-35 and Underlying Decisions and Actions in EB Docket 11-71 (filed Oct. 30, 2017).

⁸ *See* [Polaris PNT PBC] Appeal of Order of Dismissal, FCC 17M-35 and Underlying Decisions and Actions in EB Docket 11-71 (filed Oct. 30, 2017) (Polaris Appeal). Throughout the instant proceeding, Havens continually flooded the record by filing pleadings *pro se* and also on behalf of entities he controls. In every instance, however, Havens and his entities appear to have always taken the same position(s), thus only serving to waste significant time of all involved.

⁹ *See* Enforcement Bureau’s Opposition to Havens and Polaris Appeals of Order of Dismissal, filed Nov. 14, 2017.

3. On November 29, 2018, the Commission issued *Memorandum Opinion and Order*, FCC 18-168, dismissing the Havens Appeal as procedurally deficient; denying the ENL-VSL Appeal on substantive grounds; referring the basic qualifications question to Bureau investigatory staff for additional inquiry; and upholding the Termination Order.¹⁰ In response, Havens filed an Initial Petition for Relief on December 10, 2018 (Initial Petition)¹¹ and a Conditional Petition [for] Reconsideration on December 31, 2018 (Conditional Petition).¹² In the interest of conserving the Commission's resources, the Chief, Enforcement Bureau, by her attorneys, herein opposes the Initial and Conditional Petitions in a single response.

The Later-Filed Conditional Petition is Unauthorized

4. Pursuant to Section 1.106(b)(1) of the Commission's rules (Rules), "any party to the proceeding, or any other person whose interests are adversely affected by any action taken by the Commission . . . , may file a petition requesting reconsideration of the action taken."¹³ In the instant case, Havens filed *two* pleadings – an Initial Petition on December 10, 2018 and a Conditional Petition on December 31, 2018 – each seeking relief of the Commission's rulings in the same *MO&O*.¹⁴ The Rules do not, however, authorize the filing of multiple petitions for reconsideration. Moreover, Havens did not seek leave to file multiple petitions for reconsideration of *the same order*. On this basis, alone, the Commission should dismiss Havens's later-filed Conditional Petition as unauthorized.

¹⁰ See *Memorandum Opinion and Order*, FCC 18-168 (issued November 29, 2018) (*MO&O*).

¹¹ See Initial Petition for Relief Including Under 47 USC § 405 of FCC 18-168 (filed Dec. 10, 2018) (Initial Petition).

¹² See Conditional Petition [for] Reconsideration Under 47 USC § 405 of FCC 18-168 Errata Copy (filed Dec. 10, 2018) (Conditional Petition).

¹³ 47 CFR § 1.106(b)(1).

¹⁴ See *supra* nn.11 and 12.

The Petition for Reconsideration Exceeds the Commission's Page Limits

5. Even if the Commission were to consider Havens's later-filed Conditional Petition to be a "supplement" to the petition for reconsideration of the type referenced in Section 1.106(f) of the Rules, and not a separate pleading, the Rules plainly state that a "petition for reconsideration shall not exceed 25 double spaced typewritten pages."¹⁵ Section 1.48(a) of the Rules makes clear that submissions other than "[a]ffidavits, statements, tables of contents and summaries of filings, and other materials which are submitted with and factually support a pleading" are counted in determining the length of the pleading.¹⁶

6. The Initial Petition contains seven (7) pages of text and an additional four (4) pages of single-spaced text in Appendix 2 and 3, which contain more than merely factual support. The Conditional Petition contains 25 pages of text.¹⁷ Thus, taken together, the Initial Petition and Conditional Petition exceed the Commission's page limit. As it is the later-filed Conditional Petition which results in Havens exceeding the 25-page limit, in accordance with Section 1.48(a) of the Rules, the Commission should return the Conditional Petition without consideration.¹⁸

None of the Polaris Entities Has Standing to Seek Reconsideration of *Memorandum Opinion and Order, FCC 18-168*

7. Section 1.106(b)(1) of the Rules restricts the right to file a petition requesting reconsideration of a Commission action to "any party to the proceeding, or any other person

¹⁵ 47 CFR § 1.106(f).

¹⁶ 47 CFR § 1.48(a).

¹⁷ Although the last page of the Conditional Petition is numbered as page 20, the pagination of the pleading begins with page 1 and then on what would be page 8, starts again with page 1. When counted together, the pleading totals 25 pages.

¹⁸ See *supra* n.16.

whose interests are adversely affected” by the action taken by the Commission.¹⁹ Havens filed the Initial Petition on behalf of his interests and those of Polaris.²⁰ The Conditional Petition was filed by Havens on behalf of his interests, those of Polaris, and those of three additional companies that Havens refers to as the Polaris PNT legal entities (Polaris PNT).²¹ In the *MO&O*, however, the Commission found that Polaris is not a party in the above-captioned proceeding.²² Havens does not dispute this in either the Initial or Conditional Petition, nor does he assert that Polaris PNT is a party to the proceeding. Moreover, Havens fails to provide any explanation in either the Initial Petition or the Conditional Petition as to how Polaris’s or Polaris PNT’s interests are adversely affected by the Commission’s *MO&O* and thus, how Polaris or Polaris PNT is entitled to seek reconsideration of that Order.

8. In both the Initial and Conditional Petitions, Havens asserts that because Polaris “holds certain assignments of interests and claims from Havens, [it] shares in the legal standing Havens has in this and other FCC matters.”²³ Havens does not identify, however, any of the “interests” and “claims” he refers to and fails to explain how any such “interests” or “claims” relate to this proceeding. Without any further explanation, Havens also appears to suggest in the Initial Petition that Polaris has “standing and interest to challenge the Order . . . as a ‘party aggrieved,’ and under the US Constitution’s First Amendment.”²⁴

9. In the Conditional Petition, Havens further alleges that Polaris and Polaris PNT

¹⁹ 47 CFR § 1.106(b)(1) (emphasis added).

²⁰ See Initial Petition at 2.

²¹ See Conditional Petition at 3.

²² See *MO&O* at 26, para. 84.

²³ Initial Petition at 2; Conditional Petition at 3. A search on February 12, 2019 of the Commission licensee database did not reveal that Polaris or the Polaris PNT entities are Commission licensees.

²⁴ Initial Petition at 2.

have “legal standing to challenge the Order . . . as a ‘party aggrieved’ for economic reasons, and due to violations and deprivations under the Order of rights protected by US constitution including its 1st, 5th and 14th Amendments, as well as under the public standard.”²⁵ Here again, Havens fails to explain how Polaris or Polaris PNT is aggrieved for economic reasons or how their Constitutional rights under the First, Fifth or Fourteenth Amendments have been adversely affected by the Commission’s *MO&O*. Thus, Havens has failed to establish any basis for Polaris or Polaris PNT to have standing to join either the Initial or Conditional Petitions. Since there is nothing in either the Initial Petition or the Conditional Petition which segregates the Polaris entities’ arguments from those made on behalf of Havens, the Commission should dismiss both pleadings as unauthorized.

**Neither Petition Offers Any Legal or Factual Basis to
Challenge Memorandum Opinion and Order, FCC 18-168**

10. Neither the Initial Petition nor the later-filed Conditional Petition offer any substantive argument regarding the *MO&O*. In fact, neither pleading contains a single citation to the *MO&O*. Rather, the Initial and Conditional Petitions amount to nothing more than incomplete, incoherent collections of unsubstantiated legal theories and purported constitutional challenges. Indeed, it is difficult even to determine which of the Commission’s rulings the Initial and Conditional Petitions seek reconsideration of. Thus, both the Initial Petition and Conditional Petition should be denied.

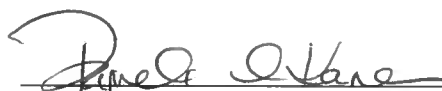
²⁵ Conditional Petition at 6-7 (footnotes omitted).

Conclusion

11. For the foregoing reasons, the Enforcement Bureau respectfully requests that the Commission dismiss and/or deny the Initial Petition and Conditional Petition.

Respectfully submitted,

Rosemary Harold
Chief, Enforcement Bureau


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February 15, 2019

CERTIFICATE OF SERVICE

Pamela S. Kane certifies that she has on this 15th day of February, 2019, sent by first class United States mail copies of the foregoing **“ENFORCEMENT BUREAU’S
OPPOSITION TO MULTIPLE PETITIONS FOR RECONSIDERATION OF
MEMORANDUM OPINION AND ORDER, FCC 18-168”** to:

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